

AMENDED IN ASSEMBLY MARCH 31, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1004**

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**Introduced by Assembly Member Hagman**

February 18, 2011

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An act to ~~amend Section 105 of~~ *add Section 1035.1* to the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 1004, as amended, Hagman. Insurance: *Conservation and Liquidation Office: receivership.*

*Existing law authorizes the Insurance Commissioner to petition the superior court of the county in which an insurer has its principal office for an order vesting title of all assets of that insurer in the commissioner, in his or her official capacity, under specified circumstances. Upon taking possession of the property and business, the commissioner is authorized to act, except as specified, as either conservator or liquidator. Existing law provides that there is associated with the Department of Insurance a Conservation and Liquidation Office with certain duties and obligations.*

*This bill would require the Conservation and Liquidation Office to report and publish all specified claims on a quarterly basis through a public filing with the court in which an insurer's liquidation proceeding is pending. The bill would require the office to contact the claimants whose claims have been allowed, as provided. The bill would also require the receiver, the Commissioner, or the Conservation and Liquidation Office, as applicable, upon receipt of notice that an allowed claim has been assigned to another party, to process that claim within 21 days.*

Existing law defines surety insurance to include, among other things, guaranteeing of behavior of persons and the guaranteeing of performance of contracts other than insurance policies and other than for payments secured by a mortgage, deed of trust, or other instrument constituting a lien or charge on real estate.

~~This bill would make technical, nonsubstantive changes to those provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 1035.1 is added to the Insurance Code,  
2     to read:

3     1035.1. (a) The Conservation and Liquidation Office shall  
4     report and publish all claims allowed in a proceeding under this  
5     article on a quarterly basis. The reporting and publication shall  
6     be made through a public filing with the court in which the  
7     liquidation proceeding is pending.

8     (b) After a claim has been allowed in a proceeding under this  
9     article, the Conservation and Liquidation Office shall contact the  
10    claimant via a written notice of determination that shall include  
11    a best time estimate as to when a distribution will be made on the  
12    claim. The notice shall provide an opt-out clause to the reporting  
13    and publication process described in subdivision (a), with  
14    instructions for exercising that clause for those individuals or  
15    organizations that choose not to have their allowed claims reported  
16    and published. Any individual or organization that chooses to  
17    opt-out of the reporting and publication may retract that decision  
18    at any time and thereafter have his or her claim information  
19    reported and published pursuant to subdivision (a).

20    (c) Upon receipt of notice that a claim, allowed in a proceeding  
21    under this article, has been assigned to another party, the receiver,  
22    the commissioner, or the Conservation and Liquidation Office, as  
23    applicable, shall process the claim within 21 days.

24    ~~SECTION 1. Section 105 of the Insurance Code is amended~~  
25    ~~to read:~~

26    ~~105. Surety insurance includes:~~

27    ~~(a) The guaranteeing of behavior of persons and the guaranteeing~~  
28    ~~of performance of contracts, including executing or guaranteeing~~

1 ~~bonds and undertakings required or permitted in all actions or~~  
2 ~~proceedings or by law allowed, other than insurance policies and~~  
3 ~~other than for payments secured by a mortgage, deed of trust, or~~  
4 ~~other instrument constituting a lien or charge on real estate.~~

5 ~~(b) Insurance against loss resulting from the forgery or alteration~~  
6 ~~of any instrument of any kind or character or of any signature~~  
7 ~~thereon. Nothing in this section shall be deemed to limit any of~~  
8 ~~the powers of title insurers.~~

9 ~~(c) Any of the following insurance when included as a part of~~  
10 ~~contract containing any guarantee of behavior or performance or~~  
11 ~~in a contract indemnifying any bank, banker, broker, financial, or~~  
12 ~~moneyed corporation or association, any state, political subdivision,~~  
13 ~~public, or municipal corporation, or any officer of any state,~~  
14 ~~political subdivision, public, or municipal corporation: Insurance~~  
15 ~~indemnifying the insured named therein against loss or destruction~~  
16 ~~from any cause of any evidences of debt of any kind or character,~~  
17 ~~evidences of ownership of any kind or character, deeds, mortgages,~~  
18 ~~warehouse receipts, bills of lading, certificates of stock, bonds,~~  
19 ~~notes, drafts, checks, instruments of similar character, stamps,~~  
20 ~~documents, money, precious metals of any kind or character,~~  
21 ~~refined or unrefined, and articles made therefrom, jewelry, watches,~~  
22 ~~necklaces, bracelets, gems, and precious and semiprecious stones,~~  
23 ~~and also against loss or damage, except by fire, to the insured's~~  
24 ~~premises, furnishings, fixtures, equipment, safes, and vaults therein~~  
25 ~~caused by burglary, robbery, holdup, theft, or larceny or an attempt~~  
26 ~~thereat. Insurance indemnifying against loss of any property as~~  
27 ~~specified herein shall not indemnify against loss of any property~~  
28 ~~occurring while in the mail or in the exclusive custody or~~  
29 ~~possession of a common carrier for the purpose of transportation,~~  
30 ~~except for the purpose of transportation by an armored motor~~  
31 ~~vehicle.~~

32 ~~(d) Insurance may not be written as surety insurance if it falls~~  
33 ~~within the definition of financial guaranty insurance as set forth~~  
34 ~~in Section 12100.~~